

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MARIA D. BLACKWELL,

Plaintiff,

v.

ROBERT J. MCKISSICK, LAKE
ERIE TRANSPORT, LLC and DB
INSURANCE CO., LTD,

Defendants.

Civil Action
File No.:

DB INSURANCE CO., LTD'S PETITION FOR REMOVAL

TO: The Honorable Judges of the United States District Court for the Northern
District of Georgia, Atlanta Division:

COMES NOW, DB Insurance Co., LTD., by and through its undersigned
counsel, and hereby files its Petition for Removal and respectfully shows this Court
the following:

1. A civil action has been filed and is now pending in the State Court of Gwinnett
County, State of Georgia, designated as Civil Action File No. 23-C-04735-S5.
2. The Summons and Complaint in that action were filed in the State Court of
Gwinnett County on July 11, 2023, and were first received by Defendant DB
Insurance Co., LTD by service through its registered agent on July 14, 2023.
Thus, DB Insurance Co., LTD timely files this petition of removal.

3. DB Insurance Co., LTD files herewith a copy of all process, pleading, and orders including the Summons and Complaint in this action, pursuant to 28 USC § 1446. (Attached hereto as Exhibits A-E).
4. Defendant is now, was at the commencement of this suit, and at all times since been a foreign corporation organized and existing under the laws of the Republic of Korea and having its principal place of business in Hawaii.
5. In her lawsuit, Plaintiff also named two other defendants: Robert J. McKissick and Lake Erie Transport, LLC,. Defendant McKissick is a citizen of Tennessee. Defendant Lake Erie Transport is an Ohio limited liability corporation with its principal place of business in Ohio. As of the date of this petition for removal, neither of the two other defendants have been served.
6. Plaintiff is a citizen of the State of Georgia.
7. When considering whether complete diversity exists, it is clear Plaintiff is a citizen of Georgia, and the Defendants are citizens of Tennessee, Ohio, Hawaii, and the Republic of Korea. Therefore, complete diversity exists, and this case is properly removed.
8. The action described above is a civil action with a claim of which this Court has original jurisdiction, and it is one that may be removed to this Court by Defendant pursuant to the provisions of 28 USC §§ 1332 and 1441 et seq., in that there is complete diversity among the parties and Defendant is not a resident of the State of Georgia, the Parties are not residents of the same State, and the

amount in controversy exceeds \$75,000.00 exclusive of interest and costs. Additionally, the underlying incident, a motor vehicle collision, occurred in Gwinnett County, Georgia.

9. “When the complaint does not claim a specific amount of damages, removal from state court is proper if it is facially apparent from the complaint that the amount in controversy exceeds the jurisdictional requirement. If the jurisdictional amount is not facially apparent from the complaint, the court should look to the notice of removal and may require evidence relevant to the amount in controversy at the time the case was removed.” Williams v. Best Buy Co., Inc., 269 F.3d 1316, 1319 (11th Cir. 2001) A Defendant seeking removal must prove by a preponderance of the evidence that the amount in controversy more likely than not exceeds the \$75,000.00 jurisdictional amount. Standridge v. Wal-Mart Stores, Inc., 945 F. Supp. 252, 256 (N.D. Ga. 1996). When deciding whether the amount in controversy has been satisfied, the District Court can use its judicial experience and common sense. Roe v. Michelin North America, Inc., 613 F. 3d. 1058, 1064 (11th Cir. 2010).
10. Plaintiff’s Complaint, alleges her past medical damages are \$70,084.92, and also alleged she will future medical expenses and other related costs. (Exhibit A, ¶ 13). Plaintiff also asserted claims for both pain and suffering, mental pain and anguish, and alleges she suffered “shock, fright, and terror.” (Exhibit A, ¶

13, 20, 21, 23). Plaintiff also brings claims for attorney's fees and punitive damages. (Exhibit A, ¶ 42-45).

11. Accordingly, based on the damages Plaintiff is seeking in this case, it is clear the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.
12. Defendant attaches hereto a copy of the Summons and Complaint in the State Court of Gwinnett County, Georgia. [Exhibit A].
13. Defendant attaches hereto a copy of Defendant's Notice of Removal filed in the State Court of Gwinnett County, Georgia. [Exhibit F].
14. This action is currently pending in the State Court of Gwinnett County, Georgia, which is within the jurisdiction of the Northern District of Georgia, Atlanta Division. 28 U.S.C.A. § 1446(a).
15. All Defendants who have been served consent to this removal.

WHEREFORE the Defendant prays the above action now pending before the State Court of Gwinnett County, Georgia be removed to this Court.

[Signature to Follow]

This 11th day of August, 2023.

By: /S/ROBERT E. NOBLE, III
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CERTIFICATE OF SERVICE

This is to certify that I have this day served all counsel and parties of record with a copy of ***DB INSURANCE CO., LTD'S PETITION FOR REMOVAL*** by statutory electronic service pursuant to O.C.G.A. § 9-11-5(b) **or** by depositing a copy of same in the United States Mail, postage prepaid, as follows:

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[Signature to Follow]

This 11th day of August, 2023.

/s/ROBERT A. LUSKIN

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